

3. The request was approved in part and denied in part by letter dated May 26, 2016. The letter informed petitioner that any appeal needed to be filed by July 10, 2016.
4. Petitioner filed a request for hearing on July 19, 2016 (postmark date).

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. A hearing concerning the denial of coverage for services or equipment by the Medical Assistance program, like the instant denied prior authorization for personal care, must be filed within 45 days of the effective date of the negative notice. See, Wis. Stat. § 49.45(5); Wis. Admin. Code § HA 3.05(3). A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed more than 45 days after the date of the May 26, 2016 letter to deny the authorization request. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

This decision does not preclude petitioner from filing a new PA request.

CONCLUSIONS OF LAW

1. The request for hearing was not timely filed.
2. The Division of Hearings and Appeals does not have jurisdiction over the matter.

THEREFORE, it is

ORDERED

That the appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 5th day of January, 2017

\s _____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2017.

Division of Health Care Access and Accountability